

# In The United States Court of Federal Claims

No. 04-1335C

(Filed: November 24, 2009)

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JOSEPH BARNES,  
KAYLENE HOLUB,  
SOCORRO YOSUICO, *et al.*,

Plaintiffs,

v.

THE UNITED STATES,

Defendant.

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## ORDER

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On August 14, 2009, the parties filed their Joint Motion To Approve Settlement Agreement. This day, the court issued an order preliminarily approving the parties' proposed settlement agreement. Accordingly, the schedule for class notification is set forth as follows:

1. On or before January 11, 2010, class counsel shall mail the Notice Of Proposed Class Settlement to all class members, pursuant to RCFC 23(c). The attached Notice has been approved for this purpose;
2. All objections by class members to the proposed settlement must be postmarked on or before February 22, 2010, in order to be considered by the court. Objections timely received by the court will be available at the courthouse for inspection and copying;
3. On or before February 22, 2010, each party shall file a memorandum proposing how issues concerning attorneys' fees and costs are to be resolved. This filing is not intended to be a vehicle for arguing the merits of these issues, but rather to describe the procedures that will be employed;

4. On or before March 24, 2010, class counsel shall file with the court their responses to any objections received from class members; and
5. A fairness hearing will be held in this case on March 31, 2010, at 10 a.m. (EST), at the National Courts Building, 717 Madison Place, Washington D.C. The location of this hearing is subject to modification, by future order, should objections be received from a significant number of class members in a particular geographic location.

**IT IS SO ORDERED.**

s/ Francis M. Allegra

Francis M. Allegra

Judge

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## **NOTICE OF PROPOSED CLASS SETTLEMENT**

TO: [class member]

A lawsuit pending in the Court of Federal Claims involves a claim by Joseph Barnes and other non-military employees of the Department of the Navy (“Navy”) who have worked at a Navy hospital or medical facility, alleging that the Navy violated federal pay statutes by failing to pay night differential pay in two situations: (1) when employees were excused from duty on officially authorized holidays; and/or (2) when employees took paid leave for periods of less than eight (8) hours within a pay period. On November 3, 2005, the court ruled that this case was to be maintained on behalf of a class consisting of those who returned the opt-in form included with the mailed notice of class certification dated January 4, 2007.

You are receiving this notice because you returned an opt-in form and are a member of the certified class. The purpose of this notice is to advise you of the status of the lawsuit, including a statement of your rights with respect to the proposed settlement of this case.

TERMS OF PROPOSED SETTLEMENT

Subject to court approval, the plaintiff and defendants have agreed on a settlement under which the United States will pay each of the individual amounts set forth in Attachment A. The sums contained in Attachment A represent the calculations made by the United States to estimate the amount of night differential pay that may not have been paid to each class member when excused from duty on officially authorized holidays; and/or when taking paid leave for periods of less than eight hours within a pay period. These payments will be in final settlement of all claims by class members against the United States. The defendant does not admit any wrongdoing or liability on its part; the proposed settlement is a compromise of disputed claims and does not mean that the United States is guilty of the charges made by plaintiffs.

SETTLEMENT HEARING

The court will hold a hearing in Washington D.C. at 10 a.m. (EST) on March 31, 2010, to determine whether, as recommended by both class counsel and the class representative, it should approve the proposed settlement. The location of this hearing may be changed if objections are received from a significant number of class members in a particular geographic location.

Objections to the proposed settlement by class members will be considered by the court, but only if such objections are filed in writing with the clerk by mail postmarked before February 22, 2010. **Specific requirements for written objections are set forth on the last page of this Notice.** Attendance at the hearing is not necessary; however, class members wishing to be heard orally in opposition to the proposed settlement should indicate in their written objection that they intend to appear at the hearing.

Class members who support the proposed settlement do not need to appear at the hearing or take any other action to indicate their approval.

FURTHER PROCEEDINGS

If the settlement is approved by the court, further procedures will be established to ascertain any information needed to distribute the amounts indicated in Attachment A. You will be notified as to how and when such distribution shall take place.

In connection with the final approval of the settlement, class counsel will make an application to the court for an award of attorney's fees and costs to be paid by the United States.

If settlement is not approved, the case will continue to be prepared for trial or judicial resolution of claims and defenses.

ADDITIONAL INFORMATION

Any questions you have about the matters in this notice should not be directed to the court, but may be directed by telephone or in writing to:

Robert W. Brownlie, Esq.  
DLA Piper LLP (US)  
401 B Street, Suite 700  
San Diego, CA 92101  
Phone: (619) 699 - 2700

You may, of course, seek the advice and guidance of your own attorney if you desire. The pleadings and other records in this litigation, including a complete copy of the proposed settlement agreement, are available on the internet at <http://pacer.psc.uscourts.gov>, or may be examined and copied during regular business hours at:

Clerk of the Court  
U.S. Court of Federal Claims  
717 Madison Place, NW  
Washington D.C. 20005  
Phone: (202) 357-6400

**REQUIREMENTS FOR WRITTEN OBJECTIONS**

If you wish to object to the proposed settlement, you must submit your written objection with the clerk of the court by mail **postmarked on or before February 22, 2010**, along with any request to be heard orally at the hearing. Objections should be made in a letter format, and should include the following information in the subject line:

**Barnes v. United States, No. 05-1355C - Settlement Objection.**

Objection letters should be mailed to the Clerk of the Court at the above-referenced address.